

5 Official Opinions of the Compliance Board 182 (2007)

PUBLIC BODY – STATE BIOSOLIDS (SEWAGE SLUDGE) TASK FORCE DETERMINED TO BE A PUBLIC BODY – NOTICE REQUIREMENTS – MINUTES – FAILURE TO FOLLOW ACT’S REQUIREMENTS, HELD TO BE A VIOLATION

August 28, 2007

Ms. Michele Fluss

The Open Meetings Compliance Board has considered your complaint that the State Biosolids (Sewage Sludge) Task Force violated the Open Meetings Act by failing to provide proper notice of its meetings, and consequently did not conduct genuinely open meetings, and by failing to prepare minutes in accordance with the Act. This opinion will be brief, because the Task Force has conceded that it has not followed the Act’s requirements. This was a violation. The Task Force, having become aware of its obligation to do so, is taking steps to ensure future compliance.

According to the timely response filed on its behalf by Assistant Attorney General Colleen Lamont, the Task Force was originally formed in 1993 and held meetings sporadically from 1995 through 1998. Under the relevant definition in effect at the time, the Task Force was not a “public body” and therefore was not subject to the Act. In 2006, however, the Task Force was reconstituted by the Secretary of the Environment. Unlike its prior incarnation, the Task Force *is* a “public body.” It is “appointed by an official subject to the policy direction of the Governor” and it “includes in its membership 2 individuals not employed by the State” §10-502(h)(2)(i) (as amended by Chapter 440 of the Laws of Maryland 2004).¹

The Task Force held meetings on July 27, October 26, November 15 and December 5, 2006. Evidently, the Task Force did not give notice of these meetings in a manner that complied with §10-506. In addition, for at least three of these meetings, the Task Force did not compile minutes that met the requirements of §10-509.²

¹ All citations in this opinion are to the State Government Article, Annotated Code of Maryland.

² With respect to the meeting of July 27, 2006, the Task Force prepared notes that substantially complied with §10-509(c). No comparable notes exist for the other meetings.

The Task Force has acknowledged its noncompliance and identified the steps that it will take to comply in the future. Particularly with respect to notice, the Task Force will publish notice of its meetings on a widely available calendar of the Maryland Department of the Environment and has agreed with your suggestion that it issue a press release informing the public of its intention to use this form of notice.

The complaint also requested that the Compliance Board address the composition of the Task Force – that it be changed so as to include greater public representation. Because this request is beyond the jurisdiction of the Compliance Board, *see* § 10-502.4, we offer no comment on it.³

OPEN MEETINGS COMPLIANCE BOARD

Courtney J. McKeldin
Tyler G. Webb

³ Finally, the complaint asked the Compliance Board to make certain legislative recommendations to the General Assembly. The Compliance Board will consider this request separately, outside the context of this complaint.